

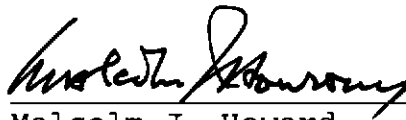
The defendant has prior North Carolina convictions (90CRS9697 and 91CRS3639) which were considered related to the instant federal offenses. Pursuant to U.S.S.G. § 5G1.3(b), defendant should have received credit for 17 months (January 27, 1994 to June 15, 1995) that the defendant served in the NCDOC prior to the judgment of this court.¹ See U.S.S.G. § 5G1.3(b) (providing that the court shall adjust the sentence for any period of imprisonment already served on an undischarged term of imprisonment if the court determines that such period of imprisonment will not be credited to the federal sentence by the Bureau of Prisons). Being on notice that the BOP did not give the defendant credit for service of any state sentence prior to June 15, 1995 and having reviewed the record closely, the court finds that defendant's sentence should be adjusted, pursuant to U.S.S.G. § 5G1.3(b) to account for the 17 months' imprisonment that the defendant served in the NCDOC on a term of imprisonment that was undischarged at the time of his sentencing for related conduct that was not credited by the Bureau of Prisons.

Therefore, pursuant to Rule 36 of the Federal Rules of Criminal Procedure, the court hereby corrects defendant's sentence and orders as follows: defendant James Rodney Smith's

¹ During the defendant's service of the state sentences he was sentenced on the federal offense on June 15, 1995, and at that point began receiving credit toward his federal sentence.

sentence on count 2 is hereby reduced from a term of imprisonment of 192 months to 175 months. His sentence on count 10 remains 60 months, to be served consecutively to Count 2, for a total of 235 months' imprisonment. Except as otherwise amended, the judgments entered June 15, 1995, July 3, 1996 and April 23, 2009, remain in effect.

This 3RD day of May 2011.

A handwritten signature in black ink, appearing to read "Malcolm J. Howard", is written over a horizontal line.

Malcolm J. Howard
Senior United States District Judge

At Greenville, NC
#26